



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0112; Notice 1]

#### Rivian Automotive, LLC, Receipt of Petition for Decision of Inconsequential

#### Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Rivian Automotive, LLC (Rivian) has determined that certain model year (MY) 2022 Rivian Electric Delivery Van (EDV) motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*. Rivian filed a noncompliance report dated October 24, 2022, and amended the report on November 14, 2022. Rivian subsequently petitioned NHTSA (the “Agency”) on November 15, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Rivian’s petition.

**DATES:** Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket

Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [https://www.regulations.gov](https://www.regulations.gov/), including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at [https://www.regulations.gov](https://www.regulations.gov/) by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

**FOR FURTHER INFORMATION CONTACT:** Syed Rahaman, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7018.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Rivian determined that certain MY 2022 Rivian EDV motor vehicles do not fully comply with paragraph S4.5.1(b)(5)(i) of FMVSS No. 208, Occupant Crash Protection (49 CFR 571.208).

Rivian filed a noncompliance report dated October 24, 2022, and amended the report on November 14, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Rivian petitioned NHTSA on November 15, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Rivian's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

**II. Vehicles Involved:** Approximately 1,278 MY 2022 Rivian EDV motor vehicles, manufactured between December 10, 2021, and September 27, 2022, were reported by the manufacturer.

**III. Noncompliance:** Rivian explains that a label displaying the subject vehicle's clearance height is affixed to the same side of the sun visor containing the air bag warning label, therefore, the subject vehicles do not comply with paragraph S4.5.1(b)(5)(i) of FMVSS No. 208.

**IV. Rule Requirements:** Paragraph S4.5.1(b)(5)(i) of FMVSS No. 208 includes the requirements relevant to this petition. S4.5.1(b)(5)(i) requires that except for the information on an air bag maintenance label placed on the sun visor pursuant to S4.5.1(a) of FMVSS No. 208, or on a utility vehicle warning label placed on the sun visor that conforms in content, form, and

sequence to the label shown in Figure 1 of FMVSS No. 105, no other information shall appear on the same side of the sun visor to which the sun visor air bag warning label is affixed.

**V. Summary of Rivian's Petition:** The following views and arguments presented in this section, "V. Summary of Rivian's Petition," are the views and arguments provided by Rivian. They have not been evaluated by the Agency and do not reflect the views of the Agency. Rivian describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Rivian states that the air bag warning label that is affixed to the sun visor in the subject vehicles meets the FMVSS No. 208 content requirements and is displayed as intended by the standard. In addition to this compliant label, there is another label affixed to the sun visor that indicates the clearance height of the subject vehicle. Rivian believes that the vehicle clearance height label included on the sun visor is inconsequential to motor vehicle safety because the subject vehicles are exclusively used in a single fleet of delivery vehicles that are driven by professional drivers. Rivian explains that the subject vehicles are walk-in vans in which the driver's seat is the only designated seating position and drivers are required to wear their seatbelts when operating the subject vehicle. Because of the vehicle's intended usage, Rivian believes that the subject noncompliance does not affect the efficacy of the information provided by the air bag warning label.

Furthermore, Rivian contends that the purpose of the requirement that no other information be present with the air bag warning label is to mitigate "the potential for children to be placed at a seating position that is equipped with an air bag and also inform of the precautions the vehicle occupant may take to protect themselves from being injured by a deploying air bag" Rivian believes that this is not a risk because there is no expectation that a child would be present in or around the subject vehicle. Rivian states that if a child were to occupy the driver's seat, the brake transmission shift interlock that is required by FMVSS No. 114 would prevent the child from operating the vehicle, thus there would be no way for the air bags to be deployed.

Additionally, Rivian says that the drivers of the subject vehicles are required to use the seatbelt at all times and the information provided by the air bag warning label is visible, easy to read, and not positioned near the vehicle clearance height label. Therefore, Rivian believes that there is no indication that the addition of the noncompliant vehicle clearance height label would cause a driver of the subject vehicle to confuse the message of the air bag warning label.

Rivian believes that the reason NHTSA determined that no other types of information are allowed to be displayed on the same side of the sun visor as the air bag warning label was to maximize the effectiveness of the label's content by ensuring that there is consistent and uniform messaging to consumers. Rivian quotes NHTSA's decision on a similar petition from Maserati: "The purpose of [the air bag warning label in] FMVSS No. 208 is to reduce the adverse effects of air bags by attracting the attention of vehicle occupants to look for the air bag warning label on the sun visor."<sup>1</sup>

Rivian contends that in past inconsequentiality petitions, NHTSA determined "that the manner in which a particular subset of vehicles is used bears upon the inconsequential nature of the air bag warning label noncompliance." Further, Rivian says that NHTSA has previously granted inconsequentiality for a noncompliance involving the placement of the air bag warning label in a vocational vehicle and found that due to the nature and intended use of the affected vehicles, it would be unlikely for children to be placed in the front passenger seating area.<sup>2</sup>

Rivian adds that NHTSA granted prior petitions in which the air bag warning label deviated from the exact language that is required by the standard.<sup>3</sup> Although those petitions related to the language that was used in the advanced air bag warning label, Rivian contends that NHTSA's rationale for those determinations still applies in the present case.

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<sup>1</sup> See Grant of Petition of Maserati, 87 FR 54749, September 7, 2022).

<sup>2</sup> See Grant of Petition of Spartan Motors, 81 FR 87654, December 5, 2016

<sup>3</sup> See Grant of Petition to Bentley Motors, 72 FR 71734, December 12, 2007; *see also* Grant of Petition to BMW, 71 FR 78511, December 29, 2006.

Rivian states that the subject noncompliance has been corrected for vehicles in production. Rivian says it is not aware of any crash, death, injury, field report, or claims related to the subject noncompliance.

Rivian concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Rivian no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicles distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Rivian notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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